

### REMARKS

Initially, in the Office Action, the Examiner has rejected Claims 1, 2, 13, 18, 23 and 28 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,178,529 (Short et al.). Claim 3 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Short et al. in view of U.S. Patent No. 6,038,677 (Lawlor et al.). Claims 4 – 12, 14 – 17, 19 – 22, 24 – 27 and 29 – 32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Short et al. in view of U.S. Patent No. 7,069,558 (Stone et al.).

Claims 1 – 32 remain pending in the present application.

#### 35 U.S.C. §102 Rejections

Claims 1, 2, 13, 18, 23 and 28 have been rejected under 35 U.S.C. §102(b) as being anticipated by Short et al. Applicant respectfully traverses these rejections.

Short et al. discloses a server cluster for monitoring and controlling a resource object, such as a physical device or application. A cluster service connects to a resource monitoring component to control and monitor the health of one or more resource objects. The resource component includes a plurality of methods, common to all such resource components, for calling by the resource monitor to control and monitor operation of the resource object therethrough. The common methods enable the cluster server to treat all resources similarly without regard to the type of resource.

Regarding claims 1, 13, 18, 23 and 28, Applicant submits that Short et al. does not disclose or suggest the limitations in the combination of each of these claims of, *inter alia*, tracking resources that have been utilized in responding to a request or set of requests, or performing a transaction or a set of transactions, or automatically defining resources that form an IT service by aggregating all resources to respond to all requests or to perform all transactions, or maintaining a record of a union of all resources that have been utilized in responding to each instance of a request or transaction over a selected time period or on a rolling time basis. The Examiner asserts that Short et al. discloses these limitations in column 4, lines 43 – 54 and column 5, lines 23 – 36. However, these portions merely disclose that to accomplish cluster creation and to perform other administration of cluster resources, systems, and the cluster itself, a cluster API is provided where applications and

cluster management administration tools call various interfaces in the API, and that a cluster service includes a configuration database manager which implements the functions that maintain a cluster configuration database on a local device such as a disk and/or memory, and a configuration database on the common persistent storage devices where the database maintains information about the physical and logical entities in the cluster, including the cluster itself, systems, resource types, quorum of resource configuration, network configuration, groups and resources. This is not tracking resources that have been utilized in responding to a request or set of requests, or performing a transaction or a set of transactions, as recited in the claims of the present application. The disclosure in Short et al. of an API for cluster creation and performing administration of cluster resources does not disclose or suggest these limitations in the claims of the present application. Further, the disclosure in Short et al. of a cluster service configuration database manager and a cluster configuration database does not disclose these limitations. Moreover, the cited portions of Short do not disclose or suggest automatically defining resources that form an IT service by aggregating all resources utilized to respond to all requests or to perform all transactions, or maintaining a record of the union of all resources that have been utilized in responding to each instance of a request or transaction over a selected time period or on a rolling time basis. Short et al. does not disclose or suggest anything related to resources that have been utilized.

Regarding claim 2, Applicant submits that this claim is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim.

Accordingly, Applicant submits that Short et al. does not disclose or suggest the limitations in the combination of each of claims 1, 2, 13, 18, 23 and 28 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

35 U.S.C. §103 Rejections

Claim 3 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Short et al. in view of Lawlor et al. Applicant respectfully traverses this rejection and submits that claim 3 is dependent on independent claim 1 and, therefore, is patentable at least for the same reasons noted previously regarding this independent claim. Applicant submits that Lawlor et al. does not overcome the substantial defects noted previously regarding Short et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of claim 3 of the present application. Applicant respectfully requests that this rejection be withdrawn and that this claim be allowed.

Claims 4 – 12, 14 – 17, 19 – 22, 24 – 27 and 29 – 32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Short et al. in view of Stone et al. Applicant respectfully traverses these rejections and submits that these claims are dependent on one of independent claims 1, 13, 18, 23 and 28 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims. Applicant submits that Stone et al. does not overcome the substantial defects noted previously regarding Short et al.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 4 – 12, 14 – 17, 19 – 22, 24 – 27 and 29 – 32 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Conclusion

In view of the foregoing remarks, Applicants submit that claims 1-32 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0461.

Respectfully submitted,

John E. Dinger, et al.

(Applicant)

Date: May 21, 2008

By:



Frederick D. Bailey  
Registration No. 42,282  
Moore & Van Allen, PLLC  
P.O. Box 13706  
Research Triangle Park, N.C. 27709  
Telephone: (919) 286-8000  
Facsimile: (919) 286-8199